

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE OPTICAL DISK DRIVE PRODUCTS
ANTITRUST LITIGATION

MDL Docket No. 3:10-md-02143 RS

Case No. 3:13-cv-1877-RS

This document relates to:

STATE OF FLORIDA, OFFICE OF THE
ATTORNEY GENERAL, DEPARTMENT
OF LEGAL AFFAIRS,

Plaintiff,

v.

HITACHI-LG DATA STORAGE, INC., et al.

Defendants.

**STIPULATION AND ~~PROPOSED~~ ORDER
REGARDING THE WITHDRAWAL OF
CERTAIN AFFIRMATIVE DEFENSES,
AND THE STATE OF FLORIDA'S
MOTION TO STRIKE**

1 WHEREAS, on January 24, 2014, Defendants filed a Motion to Dismiss the State of
 2 Florida, Office of the Attorney General, Department of Legal Affairs' ("Florida") Amended
 3 Complaint for Damages, Civil Penalties, [and] Injunctive Relief ("Motion to Dismiss") (Dkt. 24);

4 WHEREAS, on April 8, 2014, the Court entered an Order Granting in Part and Denying in
 5 Part Motion to Dismiss State of Florida's Complaint (Dkt. 28);

6 WHEREAS, on May 19, 2014, Florida filed a Second Amended Complaint for Damages,
 7 Civil Penalties, and Injunctive Relief ("Second Amended Complaint") (Dkt. 31);

8 WHEREAS, the undersigned Defendants filed separate Answers to Florida's Second
 9 Amended Complaint on or about June 18, 2014 and June 25, 2014, which individually asserted
 10 various Affirmative Defenses by each Defendant;

11 WHEREAS, on July 9, 2014, Florida filed a Motion to Strike Defendants' Affirmative
 12 Defenses to the State of Florida's Second Amended Complaint ("Motion to Strike") (Dkt. 60),
 13 which seeks dismissal of the following four Affirmative Defenses, to the extent asserted by a
 14 particular Defendant: (i) Lack of Standing Based on *Mack v. Bristol-Myers Squibb Co.*, 673 So.
 15 2d 100 (Fla. 1st DCA 1996) ("*Mack*"); (ii) lack of personal jurisdiction; (iii) improper venue; and
 16 (iv) incorporation of other Defendants' defenses (*see* Dkt. 60, Appendix A-D);

17 WHEREAS, the parties have conferred and reached an agreement whereby Defendants
 18 agree to withdraw the Affirmative Defenses identified in Appendix A-D of Florida's Motion to
 19 Strike from their individual Answers, and Florida agrees to withdraw its Motion to Strike; and

20 WHEREAS, the parties agree that the withdrawal of improper venue as an Affirmative
 21 Defense from any Defendant's Answer shall not preclude any party, including either Florida or
 22 any Defendant, from later moving the Court to change or transfer the venue of this action.

23 NOW, THEREFORE, IT IS HEREBY STIPULATED and AGREED, subject to Court
 24 approval, that Florida's Motion to Strike (Dkt. 60) shall be deemed withdrawn. In addition, the
 25 following four Affirmative Defenses shall be deemed withdrawn, to the extent asserted by any
 26 Defendant in its Answer to Florida's Second Amended Complaint: (i) lack of standing based on
 27 *Mack*; (ii) lack of personal jurisdiction; (iii) improper venue; and (iv) incorporation of other
 28 Defendants' defenses. The withdrawal of improper venue as an Affirmative Defense from any

Defendant's Answer shall not preclude any party from subsequently moving this Court to change or transfer the venue of this action.

IT IS SO STIPULATED.

DATED: August 4, 2014

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Pursuant to Civil Local Rule 5-1(i)(3), the filer attests that concurrence in the filing of this document has been obtained from each of the signatories.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 8/4/14



HONORABLE RICHARD SLEBORG
UNITED STATES DISTRICT COURT JUDGE